

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VII  
901 NORTH 5<sup>TH</sup> STREET  
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION  
AGENCY REGION VII  
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF )

SOUTH CENTRAL COOP )  
118 North Meyer Avenue )  
Lacona, Iowa 50139 )  
)  
)

Docket No. FIFRA 07-2004-0186

CONSENT AGREEMENT AND  
FINAL ORDER

**PRELIMINARY STATEMENT**

This proceeding for the assessment of civil penalties was initiated on or about May 4, 2004, pursuant to Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act (hereinafter called FIFRA), 7 U.S.C. §136l, when the United States Environmental Protection Agency (hereinafter referred to as "Complainant") issued a "Complaint and Notice of Opportunity for Hearing" to South Central Coop (hereinafter referred to as "Respondent").

The Complaint charged Respondent with violating Section 12(a)(2)(G) of FIFRA, 7 U.S.C. § 136j (a)(2)(F) which states that it shall be unlawful for any person to sell or make available for use a registered pesticide classified for restricted use other than in accordance with Section 3(d) of FIFRA, 7 U.S.C. § 136a(d).

Subsequently, Complainant and Respondent entered into negotiations in an attempt to resolve the Complaint. This Consent Agreement and Consent Order set forth herein below is the result of these negotiations and represents settlement of this Complaint.

### **CONSENT AGREEMENT**

It is hereby agreed, and accepted by Respondent, that:

1. This Consent Agreement is being entered into by the Parties in full settlement of, and release from all FIFRA civil penalties that might have attached as a result of the allegations in the Complaint. Respondent has read the Consent Agreement, finds it reasonable and consents to its issuance and its terms and explicitly waives its right to request a hearing on the Complaint, this Agreement, or the attached Final Order.

2. Respondent admits the jurisdictional allegations of the Complaint and admits the facts stipulated in this Consent Agreement.

3. Respondent neither admits nor denies the violations of Section 12(a)(2)(F) of the FIFRA, 7 U.S.C. § 136j (a)(2)(F) as set forth in the Complaint and neither admits nor denies that such violations are violations of Section 14 of FIFRA, 7 U.S.C. § 136l.

4. Respondent certifies by signing this Consent Agreement and Final Order that it is presently in compliance with FIFRA, 7 U.S.C. 136 *et seq.*, and all regulations promulgated thereunder.

5. Nothing in this Consent Agreement shall be construed as a release from, or to insulate Respondent from, any other action under any law and/or regulation administered by the U.S. Environmental Protection Agency.

6. Each party shall bear its own costs and attorneys' fees in the action resolved by this Consent Agreement.

7. Each signatory of this Agreement certifies that he or she is fully authorized to enter into the terms of this Consent Agreement and Final Order.

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South Central Coop*

8. Respondent has modified its accounting system by installing new software that requires a valid certified applicator's permit number to be entered prior to the sale or purchase of a restricted use pesticide. This system ensures effective compliance.

9. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a mitigated civil penalty as specified in Paragraph 2 of this Final Order.

### **FINAL ORDER**

Pursuant to Section 14 of FIFRA, as amended, 7 U.S.C. § 136l, and upon information contained in this Consent Agreement of the parties herein, IT IS HEREBY ORDERED THAT:

1. Respondent shall remain in compliance with FIFRA and all regulations promulgated thereunder.

2. Respondent, in settlement of the allegations set forth in the Complaint, shall pay by cashier's or certified check, a civil penalty, for the violation cited therein, in the amount of Eight Thousand and Eight Hundred Dollars (\$8800.00), payable to the "Treasurer, United States of America", and such check shall be mailed to:

EPA-Region VII  
c/o Mellon Bank  
P.O. Box 371099M  
Pittsburgh, Pennsylvania 15251

The payment shall be identified as **In the Matter of South Central Coop**. A copy of the check shall be simultaneously be sent to the following:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region VII  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101; and

*In the matter of  
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Melissa A. Coleman  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
Region VII  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101.

3. Payment must be received at the above address on or before 30 days after the effective date of the Final Order (the date by which payment must be received shall hereafter be referred to as the "due date"). The effective date of this Order shall be the date on which it is signed by the Regional Judicial Officer.


4. Failure to pay the penalty in full according to the above provisions, will result in the referral of this matter to the United States Department of Justice for collection.

5. If payment is not received on or before the due date, interest will be assessed at the annual rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717. The interest will be assessed on the overdue amount from the due date through the date of payment.

6. This executed Consent Agreement and Final Order shall be returned to the Regional Hearing Clerk, U.S. Environmental Protection Agency, 901 North 5<sup>th</sup> Street, Kansas City, Kansas, 66101.

COMPLAINANT:

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY

By:   
Melissa A. Coleman  
Assistant Regional Counsel  
Office of Regional Counsel

Date: 7/14/04

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RESPONDENT:

South Central Coop

By: Larry Paul  
Title: General Manager  
Date: 7/14/04

IT IS SO ORDERED. This Order shall become effective immediately.

Robert L. Patrick  
ROBERT L. PATRICK  
Regional Judicial Officer  
U.S. Environmental  
Protection Agency  
Region VII

Date: July 20, 2004 UNITED STATES

IN THE MATTER OF South Central Coop, Respondent  
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CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:

Melissa A. Coleman  
Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

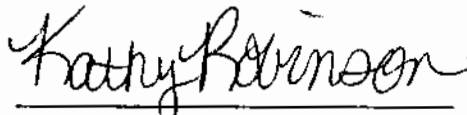
Copy by Certified Mail Return Receipt to:

Larry Lamb  
South Central Coop  
118 N. Meyer  
P.O. Box 97  
Lacona, Iowa 50139

Copy by Facsimile and  
First Class Pouch Mail to:

The Honorable Susan L. Biro  
Chief Administrative Law Judge  
U. S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Mail Code 1900L  
Washington, D. C. 20460

Dated: 7/20/04



Kathy Robinson  
Regional Hearing Clerk